

REMARKS

The Examiner has provisionally rejected claims 1, 3-13, 15-28, 30, 31 and 33 under the judicially created doctrine of double patenting as being unpatentable over claims 1-9 and 13-23 of copending Application No. 10/810,457. Applicant respectfully responds to the rejection.

The present application has a filing date (February 9, 2004) which is earlier than the filing date (March 26, 2004) of Application No. 10/810,457. Since the present earlier-filed application is provisionally rejected only on the basis of non-statutory double patenting, applicant respectfully requests that the Examiner withdraw the rejection and permit the present earlier-filed application to issue as a patent without a terminal disclaimer as set forth under MPEP 804 (see, e.g., MPEP 804, I, B, 1).

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of the present application are respectfully requested. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below. If it is determined that fees are due, the Commissioner is hereby authorized to charge payment of any fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 17-0026. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a).

Respectfully submitted,

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